THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE Dr. JUSTICE G. YETHIRAJULU

W.A.No.203 of 2005

JUDGMENT (per the Hon'ble Sri Justice B. Prakash Rao):

The appellants herein are aggrieved against the order dated 28-10-2004 passed by the learned single Judge of this Court in W.P.No.3018 of 1999, allowing the writ petition filed by the respondent herein, who assailed the order of the disciplinary authority dated 26-03-1998, imposing punishment of 'compulsory retirement' on him and as confirmed by the appellate authority, through its order dated 29-10-1998.

The case of the respondent herein (writ petitioner) is that during the course of employment, he was initiated proceedings, which also included theft of energy in all five service meters.
In all four charges, the enquiry officer found the respondent guilty. The disciplinary authority sought for his compulsory retirement. Further proceedings initiated by him were rejected. Hence, the writ petition was filed.

The learned single Judge after considering the submissions made on either side and the material available on record allowed the writ petition, setting aside the order of the disciplinary authority, as confirmed by the appellate authority in awarding the punishment of compulsory retirement imposed on the petitioner in view of the catena of decisions of the Apex Court and the writ petitioner is deemed to have been reinstated into service with the punishment of awarding postponement of two increments with cumulative effect. The leaned Judge further observed that the writ petitioner is entitled to all retirement benefits after taking into consideration the postponement of two increments with cumulative effect.

Heard the learned counsel for the appellants, the learned counsel for the respondent and perused the impugned order.

In the impugned order, the learned single Judge observed that the charges levelled against the writ petitioner for the alleged violation of regulation and the

alleged pilferage of energy by him were not proved. He further observed that there is no finding that the writ petitioner was in occupation of any of the premises where the five service meters were installed, therefore, it cannot be said that charge No.4 was proved against him. Insofar as charge Nos.1 to 3 are concerned, there is no specific finding recorded by the disciplinary authority as well as appellate authority with regard to compliance of Regulation 5 of the Revised Conduct Regulations and therefore, without there being any finding on charge Nos.1 to 3, the punishment of compulsory retirement imposed on the writ petitioner shocks the conscience of this Court.

Having regard to the facts and circumstances of the case and in view of the catena of decisions of this Court and Apex Court, and also in view of the fact that the writ petitioner was made to retire compulsorily, we do not find any error in the impugned order. Therefore, we see no reason to allow this appeal and it is liable to be dismissed.

Accordingly, the writ appeal is dismissed. No order as to costs.

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B. PRAKASH RAO, J

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Dr.G. YETHIRAJULU, J

Date: 06-12-2005

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